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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

LARRY JAMES WOLFE, JR.,

Defendant and Appellant.

A156340

(Mendocino County  
Super. Ct. Nos. SCUKCRCR1893939,  
SCUKCRCR1894412)

On April 30, 2018, the Mendocino County District Attorney filed an information charging defendant Larry James Wolfe, Jr. with the felony offense of assault with a deadly weapon (knife) (Pen. Code, § 245, subd. (a)(1) <sup>1</sup>), together with two prior prison term sentence enhancement allegations (§ 667.5, subd. (b)), and the misdemeanor offense of vandalism (§ 549, subd. (b)(1)). Thereafter, on September 6, 2018, the Mendocino County District Attorney filed another information charging defendant with the felony offenses of sale or transportation of a controlled substance (methamphetamine) for sale (Health & Saf. Code, § 11379, subd. (a)) and possession of a controlled substance (methamphetamine) for sale (Health & Saf. Code, § 11378), together with two prior prison term sentence enhancement allegations (§ 667.5, subd. (b)), and the misdemeanor offenses of possession of a controlled substance (heroin) (Health & Saf. Code, § 11350, subd. (a)), and driving with a revoked or suspended license for driving under the influence (Veh. Code, § 14601.2, subd. (a)).

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<sup>1</sup> All further unspecified statutory references are to the Penal Code.

On November 1, 2018, at a change of plea proceeding to resolve both informations, defendant pleaded no contest to the felony offense of assault with a deadly weapon, admitted the related two prior prison term sentence enhancement allegations, and pleaded no contest to the felony offense of sale or transportation of a controlled substance for sale; all the other charges and allegations in the informations were dismissed. The court informed defendant that he would be sentenced to an aggregate term of five years in state prison. On November 30, 2018, the court imposed the agreed upon sentence. Defendant's request for a certificate of probable cause was denied by the trial court.

Appellant's appellate counsel has briefed no issues and asks us to independently review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). The record demonstrates no errors in the change of plea proceeding or the sentencing. Based on our examination of the entire record in accordance with *Wende*, we agree with appellate counsel that there are no issues that require further briefing. As required by *People v. Kelly* (2006) 40 Cal.4th 106, 124, we affirmatively note appellate counsel has informed appellant of his right to file a supplemental brief and he has not filed such a brief.

However, the court's November 1, 2018 minute order in Superior Court No. SCUKECR1894412 incorrectly reflects that defendant pleaded guilty, instead of no contest, to the felony offense of sale or transportation of a controlled substance for sale (Health & Saf. Code, § 11379, subd. (a)). Accordingly, on remand, we shall direct the trial court to amend its November 1, 2018 minute order to correct the error. (*People v. Zackery* (2007) 147 Cal.App.4th 380, 385–386 [“[w]here there is a discrepancy between the oral pronouncement of judgment and the [court's] minute order . . . , the oral pronouncement controls” and should be accurately reflected in the court's minute order].)

### **DISPOSITION**

The matter is remanded to the trial court with directions to amend its November 1, 2018 minute order in Superior Court No. SCUKECR1894412 to reflect that defendant entered a plea of no contest to the felony offense of sale or transportation of a controlled

substance for sale (Health & Saf. Code, § 11379, subd. (a)). In all other respects, the judgment is affirmed.

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Petrou, J.

WE CONCUR:

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Siggins, P.J.

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Fujisaki, J.